

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a Washington
corporation,

Plaintiff,

v.

MOTOROLA, INC., and MOTOROLA
MOBILITY LLC, and GENERAL
INSTRUMENT CORPORATION,

Defendants.

MOTOROLA MOBILITY LLC, and
GENERAL INSTRUMENT CORPORATION,

Plaintiffs/Counterclaim Defendant,

v.

MICROSOFT CORPORATION,

Defendant/Counterclaim Plaintiff.

CASE NO. C10-1823-JLR

DECLARATION OF STUART W.
YOTHERS IN SUPPORT OF
DEFENDANTS' MOTIONS IN LIMINE

**NOTE ON MOTION CALENDAR:
Friday, October 19, 2012**

DECLARATION OF STUART W. YOTHERS IN SUPPORT OF
DEFENDANTS' MOTIONS IN LIMINE
CASE NO. C10-1823-JLR

SUMMIT LAW GROUP PLLC
315 FIFTH AVENUE SOUTH, SUITE 1000
SEATTLE, WASHINGTON 98104-2682
Telephone: (206) 676-7000
Fax: (206) 676-7001

1 I, STUART W. YOTHERS, declare as follows:

2 1. I am an associate at the law firm of Ropes & Gray LLP, counsel to Motorola, Inc.
3 (now Motorola Solutions, Inc.), Motorola Mobility, LLC, and General Instrument Corporation
4 (collectively "Motorola"), Defendants in this action, and am a member in good standing of the
5 bars of the Commonwealth of Massachusetts and State of New York.

6 2. I submit this declaration in support of Defendants' Motions in Limine, submitted
7 concurrently herewith.

8 1. Attached as Exhibit 1 is a true and correct copy of the August 10, 2012 Rebuttal
9 Report of Matthew R. Lynde, Ph.D., Pursuant to Rule 26(a)(2)(B) (filed under seal). This
10 document was previously submitted to the Court as Exhibit 46 to the September 5, 2012 Second
11 Declaration of Samuel L. Brenner In Support of Motorola Mobility's and General Instrument's
12 Opposition to Microsoft's Rule 702 Motion to Preclude Testimony By Charles R. Donohoe and
13 Dr. R. Sukumar (Dkt. No. 392), and was ordered sealed by the Court (Dkt. No. 432).

14 2. Attached as Exhibit 2 is a true and correct copy of excerpts of the transcript of the
15 deposition of Matthew R. Lynde, Ph.D., which was taken under oath in San Francisco, California,
16 on August 31, 2012 (filed under seal). The entire document from which these excerpts are drawn
17 was previously submitted to the Court as Exhibit 38 to the September 5, 2012 Second Declaration
18 of Samuel L. Brenner In Support of Motorola Mobility's and General Instrument's Opposition to
19 Microsoft's Rule 702 Motion to Preclude Testimony By Charles R. Donohoe and Dr. R. Sukumar
20 (Dkt. No. 392), and was ordered sealed by the Court (Dkt. No. 432).

21 3. Attached as Exhibit 3 is true and correct copy of excerpts of the August 10, 2012
22 Rebuttal Expert Report of Kevin M. Murphy (filed under seal).

23 4. Attached as Exhibit 4 is a true and correct copy of the transcript of the deposition
24 of Kevin M. Murphy, which was taken under oath in Chicago, Illinois, on August 31, 2012 (filed
25 under seal). This document was previously submitted to the Court as Exhibit 39 to the September
26 5, 2012 Second Declaration of Samuel L. Brenner In Support of Motorola Mobility's and General

Instrument's Opposition to Microsoft's Rule 702 Motion to Preclude Testimony By Charles R. Donohoe and Dr. R. Sukumar (Dkt. No. 392), and was ordered sealed by the Court (Dkt. No. 432).

5. Attached as Exhibit 5 is a true and correct copy of the August 10, 2012 Expert Report of Peter Rossi. This document was previously submitted to the Court as Exhibit 60 to the September 5, 2012 Second Declaration of Samuel L. Brenner In Support of Motorola Mobility's and General Instrument's Opposition to Microsoft's Rule 702 Motion to Preclude Testimony By Charles R. Donohoe and Dr. R. Sukumar (Dkt. No. 392).

6. Attached as Exhibit 6 is a true and correct copy of the transcript of the deposition of Peter E. Rossi, which was taken under oath in San Francisco, California, on August 30, 2012. Two pages (pages 7-8) were marked as "confidential," and have been redacted. This document was previously submitted to the Court as Exhibit 47 to the September 5, 2012 Second Declaration of Samuel L. Brenner In Support of Motorola Mobility's and General Instrument's Opposition to Microsoft's Rule 702 Motion to Preclude Testimony By Charles R. Donohoe and Dr. R. Sukumar (Dkt. No. 392).

7. Attached as Exhibit 7 is a true and correct copy of excerpts of the July 24, 2012 Expert Report of Matthew R. Lynde, Ph.D., Pursuant to Rule 26(a)(2)(B) (filed under seal).

8. Attached as Exhibit 8 is a true and correct copy of a September 18, 2003 presentation delivered to Motorola containing details of InteCap's 2003 study, and bearing Bates numbers MOTO-MS-000237724-48 (filed under seal).

9. Attached as Exhibit 9 is a true and correct copy of excerpts of the March 20, 2012 deposition of K. McNeill Taylor, Jr., which was designated Highly Confidential and which was taken under oath in New York, NY (filed under seal). The entire deposition transcript from which these pages are excerpted was previously submitted to the Court as Exhibit 1 to the March 30, 2012 Declaration of Kevin J. Post in Support of Defendants' Motion for Partial Summary Judgment (Dkt. No. 230), and was ordered sealed by the court (Dkt. No. 294).

10. Attached as Exhibit 10 is a true and correct copy of the August 10, 2012 Rebuttal Expert Report of Michael J. Dansky (filed under seal).

11. Attached as Exhibit 11 is a true and correct copy of excerpts (highlighted by counsel) of the April 10, 2012 deposition of Amy A. Marasco, which was designated Highly Confidential, and which was taken under oath in Seattle, Washington (filed under seal).

12. Attached as Exhibit 12 is a true and correct copy of excerpts (highlighted by counsel) of the April 4, 2012 deposition of Horacio E. Gutierrez, which was designated Highly Confidential - Attorneys' Eyes Only, and which was taken under oath in Seattle, Washington (filed under seal).

I declare under penalty of perjury of the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 4th day of October, 2012.

/s/ *Stuart W. Yothers*

Stuart W. Yothers

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Arthur W. Harrigan, Jr., Esq.
Christopher T. Wion, Esq.
Shane P. Cramer, Esq.
Calfo Danielson, Harrigan, Leyh & Eakes LLP
arthurh@calfoharrigan.com
chrisw@calfoharrigan.com
shanec@calfoharrigan.com

Richard A. Cederoth, Esq.
Brian R. Nester, Esq.
David T. Pritikin, Esq.
Douglas I. Lewis, Esq.
John W. McBride, Esq.
David Greenfield, Esq.
William H. Baumgartner, Jr., Esq.
David C. Giardina, Esq.
Carter G. Phillips, Esq.
Constantine L. Trela, Jr., Esq.
Ellen S. Robbins, Esq.
Nathaniel C. Love, Esq.
Sidley Austin LLP
rcederoth@sidley.com
bnester@sidley.com
dpritikin@sidley.com
dilewis@sidley.com
jwmcbride@sidley.com
david.greenfield@sidley.com
wbaumgartner@sidley.com
dgiardina@sidley.com
cphillips@sidley.com
ctrela@sidley.com
erobbins@sidley.com
nlove@sidley.com

T. Andrew Culbert, Esq.
David E. Killough, Esq.
Microsoft Corp.
andycu@microsoft.com
davkill@microsoft.com

DATED this 4th day of October, 2012.

/s/ Marcia A. Ripley

Marcia A. Ripley